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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,844	01/15/2004	Daniel L. Gasper	67575-5006	8758
67574 7590 12/19/2008 MORGAN, LEWIS & BOCKIUS, LLP ONE MARKET SPEAR STREET TOWER SAN FRANCISCO, CA 94105				
EXAMINER				
SKURDAL, COREY NELSON				
ART UNIT		PAPER NUMBER		
3782				
MAIL DATE		DELIVERY MODE		
12/19/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/759,844

Applicant(s)

GASPER, DANIEL L.

Examiner

COREY N. SKURDAL

Art Unit

3782

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-23 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 15 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-8508)
4) ☐ Interview Summary (PTO-413)
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____
Paper No(s)/Mail Date _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-11, and 13-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Canell (US 3,209,970).

Regarding claims 1, 3, 7, 13, and 15, Canell discloses a rack for releasably holding sport equipment comprising: a support member (Figure 3) having a longitudinal axis (section view line IV), and including a base (Figure 7), a guide 12 extending along said longitudinal axis from said base, and support prongs 16 extending from said base at an angle with respect to said longitudinal axis; a clamp member 26/45 slideable along said guide between an open position and a secured closed position, said clamp member having wedge surfaces 39 substantially parallel to said support prongs 16 defining a variable width slot between said wedge surface and said support prong dimensioned to receive the sport equipment; a resilient gripping member 27 disposed on said support prong facing said wedge surface; and a securing device 46 configured to move said clamp member between said open and closed positions, whereby said wedge surface is configured to bias said sport equipment against said support prong as the clamp member moves toward said closed position.

Regarding claims 2 and 14, the rack of Canell is dimensioned and configured to hold a wake board, a knee board, a surfboard, or water skis.

Regarding claims 4 and 16, said pair of support prongs 16 are substantially symmetrically arranged about said longitudinal axis (sectional line IV) and said pair of wedge surfaces 39 are substantially symmetrically arranged about said longitudinal axis.

Regarding claims 5 and 17, said rack comprises a pair of said support members and a corresponding pair of clamp members (col. 2 lines 28-31), said rack further comprising a cross brace 10 having two ends, each said supporting member attached to said cross brace adjacent a respective end.

Regarding claims 6 and 18, said rack further comprises a mount 50 for securing said rack to a watercraft, said mount disposed on said cross brace intermediate said ends.

Regarding claims 8 and 19, said gripping member 27 includes a lug 28 extending toward said wedge surface when said clamp member is in said open position, and configured to flex toward said base as said clamp member is moved to said closed position.

Regarding claims 9 and 20, said gripping member includes a plurality of said lugs (above and below the middle of collar 27).

Regarding claims 10 and 21, said securing device includes a securing lever 48 and a securing rod 45 secured to said securing lever, extending through said support member and operably coupled to said clamp member.

Regarding claims 11 and 22, said closed position is adjustable to accommodate said sport equipment of various widths.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 12 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Canell in view of Boyer (US 5,898,974). Canell discloses the invention substantially as claimed but does not have a threaded end of said securing rod 45 adjustably coupled to a threaded pin of said securing lever 48. However, Boyer teaches an adjustable handle/crank assembly, wherein a securing rod 20 is provided with a threaded end that is adjustably coupled to a threaded pin 36 to couple the securing rod to a lever 22. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to make the lever of Canell removable in the manner taught by Boyer in order to allow the lever to be removed when not in use.

Response to Arguments

5. Applicant's arguments with respect to claim 1-23 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to COREY N. SKURDAL whose telephone number is (571)272-9588. The examiner can normally be reached on M-Th 8am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3782

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. N. S./
Examiner, Art Unit 3782

/Nathan J. Newhouse/
Supervisory Patent Examiner, Art Unit 3782